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ILLINOIS COMMERCE COMMISSION

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

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COMM. FILE 02-0560

VERIZON NORTH, INC. and ) DOCKET NO.  
VERIZON SOUTH, INC. ) 02-0560  
)  
Verified Petition for )  
Certification Pursuant to )  
220 ILCS 5/13-517(a) or )  
Waiver pursuant to 220 ILCS )  
5/13-517(b) )

**BRIEF OF VILLAGE OF MT. ZION**

VILLAGE OF MT. ZION, Intervenor,

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POSTLEWAIT, STOCKS, & FLYNN,  
Its Attorneys,

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### INTRODUCTION

The Village of Mt. Zion ("Mt. Zion"), the Intervenor in the above-referenced cause, respectfully requests that this Honorable Court deny the relief sought by Verizon herein. The Village of Mt. Zion admits that the practices and procedures before this Honorable Body are unique to the normal legal problems of small municipalities. Therefore, we apologize in advance for any technical oversights committed by Mt. Zion regarding the rules and practices before this Honorable Body. Mt. Zion's position merely seeks to receive the broadband service that is provided to other small municipalities by this telecommunication carrier.

### ISSUE

Whether Verizon North, Inc. and South, Inc. (hereinafter collectively referred to as "Verizon") is entitled to a waiver pursuant to Section 13-517 of the Public Utilities Act?

### ARGUMENT

Mt. Zion is a small community with approximately 5,000 residents that borders the City of Decatur and is located in Macon County, Illinois. Decatur has a population base of approximately 86,000 residents and is the main economic base for Macon County.

During the cross-examination of Paul Ruff, Mr. Ruff was asked if Decatur was the situs of the Archer-Daniels-Midland Company and the Illinois Power Company headquarters. Mr. Ruff confirmed that Decatur was the situs of the Archer-Daniels-Midland Company and the Illinois Power Company headquarters. Decatur is also the location of a large Caterpillar manufacturing plant, two hospitals, a liberal arts college and a multitude of small manufacturing businesses.

These businesses are the primary employers of the residents in Decatur and the surrounding communities like Mt. Zion. However, it is the retail business that generates the sales taxes that ultimately fuels the financial stability of the municipal governments of the City of Decatur, Mt. Zion and other surrounding communities like Forsyth and Warrensburg. Consequently, it is a simple economic cycle that the large employers cause the building of residential rooftops. The residential rooftops are the source of the retail merchants and the retail merchants are the source of the sales tax that fuels the financial wherewithal for the municipal bodies to provide municipal services.

Mt. Zion does not pretend to expect Archer-Daniels-Midland Company or the Illinois Power headquarters to relocate to Mt. Zion. Mt. Zion is proud of the Pittsburgh Plate Glass Company plant that borders the Mt. Zion boundaries. Further, the Pittsburgh Plate Glass Company employs many of the Mt. Zion residents, as does Caterpillar, Archer-Daniels-Midland Company, Illinois Power and other small manufacturing plants located in Macon County. Consequently, Mt. Zion, like other municipal bodies is interested in increasing its marketing ability for economic development of retail businesses. The enhancement of retail businesses enhances the sales tax revenue for the Village of Mt. Zion. Consequently the Village of Mt. Zion an opportunity to enhance its municipal services and/or infrastructure, parks and playgrounds and essentially to create the utopian community in which all of us seek to reside.

Section 13-517 of the Public Utilities Act provides that in order to receive a waiver Verizon must establish that a waiver is necessary to:

1. (a) To avoid a significant adverse economic impact on users of telecommunications services generally;
- (b) To avoid imposing a requirement that is unduly economically burdensome;
- (c) To avoid imposing a requirement that is technically infeasible; or
- (d) To avoid imposing a requirement that is otherwise impractical to implement in exchanges with low population density;
2. And is consistent with the public interest, convenience and necessity.

Mt. Zion does not have the financial resources to retain experts and rebut the arguments raised by Verizon in this matter. However, their Petition is clearly inconsistent with the public interests, convenience and necessity of Mt. Zion. Granted during the cross-examination of Paul Ruff, he volunteered, without being asked, that he is unfamiliar with any residents that utilized dial-up Internet service. It is a well-known fact that AOL is the largest Internet subscriber service. AOL does not have an Internet access point in Mt. Zion. Therefore, AOL subscribers in Mt. Zion must call Decatur or some surrounding area, which results in a toll call for the Mt. Zion resident. Just because Mr. Ruff is unfamiliar with any dial-up users it defies logic to believe that there are no dial-up connections by Mt. Zion residents to Internet access providers outside of Mt. Zion.

On cross-examination, Paul Ruff was asked whether he conducted public surveys regarding how many residents seek advanced telecommunications services as defined in Section 13-517. Mr. Ruff admitted he had not conducted a survey.

It appears Verizon is attempting to prove that Mt. Zion's failure to conduct a survey proves that the waiver is consistent with the public interest. Upon a review of Section 13-517 it is obvious that Verizon has confused the burden of proof. Verizon should have conducted a simple one-question survey of its customers, "Would you be interested in receiving broadband Internet service?" Because Mt. Zion has not conducted a survey does not

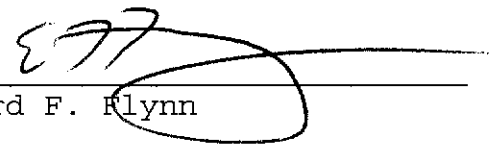
mean that Verizon has fulfilled its burden in Paragraph (2) of Section 13-517 of the Public Utility Act.

Consequently, if Verizon is opposed to providing the broadband service to Mt. Zion, then Mt. Zion would gladly accept an assignment by Verizon to the telecommunications provider for Decatur, Forsyth and other surrounding communities within Macon County since those communities are receiving the advanced telecommunications service without dispute.

WHEREFORE, Mt. Zion respectfully requests that this Honorable Court deny the relief sought by Verizon herein.

VILLAGE OF MT. ZION, Intervenor,

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BY:   
\_\_\_\_\_  
Edward F. Flynn

CERTIFICATE OF SERVICE

I certify that on the 7<sup>th</sup> day of March, 2003, at 5:00 o'clock p. m., I deposited a copy of the **Brief of Village of Mt. Zion** in a U. S. Post Office Box at 225 North Water Street, Decatur, Illinois, enclosed in an envelope with proper postage prepaid, addressed to the following in the manner set forth:

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